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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,181	12/31/2003	Kenichi K. Yabusaki	03-YAB-117	3401

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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,181

Applicant(s)

YABUSAKI, KENICHI K.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7-7-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology in particular the term "said" in lines 3,4 and 8. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,533,445 to Finney.

Referring to claim 1, Finney discloses an entrails removal instrument for making a hollow cavity in a body including, an elongate body – at 4-5, having two straight parallel sides – see figures 1-3, the body forming a curved groove between the longitudinal sides – see at the joining of items 4 and 6 in figure 4, an end section – at 5, the end section extending from the elongate body and tapering to a rounded point – see for example figures 1-2, and a plurality of tines – at 6-8, emanating from a surface of the instrument, wherein at least one tine – at 8, of the plurality of tines emanates from the end section and is directed away from the rounded point and towards the elongate body – see for example figures 1-3, wherein the entrails removal instrument is adapted to fit into the body and form a hollow cavity when the instrument is inserted into the body, rotated and removed – see for example column 2 lines 8-55 and column 3 lines 1-24.

Referring to claims 2-3, Finney discloses the instrument is made of steel/stainless steel – see for example column 2 lines 8-14.

Referring to claim 4, Finney discloses the at least one tine – at 8, that emanates from the end section includes a plurality of tines – at 8 – see for example figures 1-3.

Referring to claim 5, Finney discloses the plurality of tines – at 6-8, from the surface of the instrument at an angle in the range between about 15 degrees and about 45 degrees – see for example figures 1-3.

Referring to claim 6, Finney discloses the end section includes a blade surface – at 5, at the rounded point – see for example figures 1-2.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finney as applied to claim 1 above, and further in view of U.S. Patent No. 4,704,769 to Hanechak et al.

Referring to claim 7, Finney does not disclose the instrument is one integral piece.

Hanechak et al. does disclose the instrument – at 2-14, is one integral piece – see figures 1-4.

Therefore it would have been obvious to one of ordinary skill in the art to take the device of Finney and add the instrument being one integral piece of Hanechak et al., so as to allow for the device to be more durable and easier to manufacture.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finney as applied to claim 1 above. Finney does not disclose the body is the bait fish herring. However, it would have been obvious to one of ordinary skill in the art to take the device of Finney and add the body being the bait fish herring, so as to allow for the body to be prepared for further processing.

Claims 9-12, 14, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finney in view of Hanechak et al.

Referring to claims 9 and 16, Finney discloses a method including, inserting an entrails removal instrument into a body, the instrument comprising, an elongate body – at 4-5, having two straight parallel sides – see figures 1-3, the body forming a curved groove between the longitudinal sides – see at the joining of items 4 and 6 in figure 4, an end section – at 5, the end section extending from the elongate body and tapering to a rounded point – see for example

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figures 1-2, and a plurality of tines – at 6-8, emanating from a surface of the instrument, wherein at least one tine – at 8, of the plurality of tines emanates from the end section and is directed away from the rounded point and towards the elongate body – see for example figures 1-3, wherein the entrails removal instrument is adapted to fit into the body and form a hollow cavity when the instrument is inserted into the body, rotated and removed – see for example column 2 lines 8-55 and column 3 lines 1-24. Finney does not disclose cutting the head off a bait fish with a knife while leaving the body and tail intact, inserting the entrails removal instrument into the fish body to a position forward of the tail and removing the viscera of the fish leaving the body and tail intact with a cavity. Hanechak et al. does disclose cutting the head off a bait fish with a knife while leaving the body and tail intact – see for example figures 1-9, inserting the entrails removal instrument into the fish body – see figure 9, to a position forward of the tail – see figure 9, and removing the viscera of the fish leaving the body and tail intact with a cavity – see for example figures 1-9 and columns 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the method of Finney and add the cutting the head off the fish and then creating a cavity in the fish by removing the viscera of the fish of Hanechak et al., so as to allow for the fish to be prepared for eating or further processing.

Referring to claim 10, Finney as modified by Hanechak et al. further discloses the entrails remover is inserted at least 2 inches into the body – see for example figures 1-3, column 2 lines 8-55 and column 3 lines 1-15 of Finney and figure 9 of Hanechak et al.

Referring to claim 11, Finney as modified by Hanechak et al. further discloses moving the entrails removal instrument in a lateral motion – see for example column 2 lines 8-55 and column 3 lines 1-15 of Finney and columns 3-4 of Hanechak et al.

Referring to claim 12, Finney as modified by Hanechak et al. does not disclose the act of rotating includes rotating at least 360 degrees. However, it would have been obvious to one of ordinary skill in the art to take the device of Finney as modified by Hanechak et al. and add the act of rotating the instrument 360 degrees, so as to ensure that the entire viscera component can be contacted and removed by the device.

Referring to claim 14, Finney as modified by Hanechak et al. does not disclose the body is the bait fish herring. However, it would have been obvious to one of ordinary skill in the art to take the device of Finney and add the body being the bait fish herring, so as to allow for the body to be prepared for further processing.

Referring to claim 19, Finney as modified by Hanechak et al. does not disclose the bait fish is herring or anchovy or sardine or smelt. However, it would have been obvious to one of ordinary skill in the art to take the device of Finney as modified by Hanechak et al. and add the bait fish being herring or anchovy or sardine or smelt, so as to allow for the body to be easily processed for further processing.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finney as modified by Hanechak et al. as applied to claim 11 above, and further in view of U.S. Patent No. 4,761,856 to Ewing. Finney as modified by Hanechak et al. does not disclose the act of rotating includes rotating at least 360 degrees. Ewing does disclose rotating the instrument – at 74-80, at least 360 degrees – see for example figure 6 and column 6 lines 48-64. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Finney as modified by Hanechak et al. and add the act of rotating the instrument 360 degrees of Ewing, so as to ensure that the entire viscera component can be contacted and removed by the device.

Claims 13, 15-18 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finney as modified by Hanechak et al. as applied to claim 12 above, and further in view of U.S. Patent No. 6,698,133 to Fricke.

Referring to claims 13 and 17, Finney as modified by Hanechak et al. does not disclose inserting at least one fishing hook attached to a fishing line into the hollow cavity and pushing it out through the fish body to form a bait. Fricke et al. does disclose inserting at least one fishing hook attached to a fishing line into the hollow cavity and pushing it out through the fish body to form a bait – see for example figures 10-11. Therefore it would have been obvious to one of ordinary skill in the art to take the device or Finney as modified by Hanechak et al. and add the inserting of the fishhook into the fish body of Fricke et al., so as to allow for the device to be used to catch fish.

Referring to claims 15 and 18, Finney as modified by Hanechak et al. and Fricke et al. further discloses a plurality of fishing hooks – see for example column 7 lines 41-51 of Fricke et al.

Referring to claims 20-21, Finney as modified by Hanechak et al. and Fricke et al. does not disclose the bait fish is herring or anchovy or sardine or smelt. However, it would have been obvious to one of ordinary skill in the art to take the device of Finney as modified by Hanechak et al. and Fricke et al. and add the bait fish being herring or anchovy or sardine or smelt, so as to allow for the body to be easily processed for further processing.

Conclusion

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4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to animal processing hand tools in general:

U.S. Pat. No. 1,706,403 to Huot – shows fish processing tool

U.S. Pat. No. 1,726,326 to Wallace – shows fish processing tool

U.S. Pat. No. 1,997,339 to Olson – shows fish processing tool

U.S. Pat. No. 2,189,752 to Breitschwerdt – shows processing tool

U.S. Pat. No. 2,508,957 to Lynn – shows eviscerating tool

U.S. Pat. No. 2,547,608 to Toti et al. – shows eviscerating tool

U.S. Pat. No. 2,968,061 to Eubanks – shows eviscerating tool

U.S. Pat. No. 3,290,720 to Gordon – shows eviscerating tool

U.S. Pat. No. 3,672,002 to Penman – shows fish processing tool

U.S. Pat. No. 4,006,514 to Penman – shows fish processing tool

U.S. Pat. No. 4,133,132 to Ellis et al. – shows plug cut bait

U.S. Pat. No. 5,145,452 to Chevalier – shows eviscerating tool

FR Pat. No. 2797152 – shows fish processing tool

DE Pat. No. 2818722 – shows processing tool

WO Pat. No. 92/04828 – shows processing tool

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER

2/18/05